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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,659	10/27/2003	Deidre J. Hunter	HU2001 CON	4058
25235	7590	11/17/2004	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEENTH ST DENVER, CO 80202			NELSON JR, MILTON	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/695,659

**Applicant(s)**

HUNTER ET AL.

**Examiner**

Milton Nelson, Jr.

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-8 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 3 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information referred to in Applicant's information disclosure statement filed October 19, 2004 has been considered.

### ***Specification***

Applicant is required to update the status of the parent application on page 1 of the specification.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lankenau (711981) in view of UK (2186006).

Lankenau shows all claimed features of the instant invention with the exception of an elastic member that circumscribes the seat portion. Note the first sheet of material (A), removable section (B), passage (A<sup>3</sup> or a'), third passage (a), fourth passage (another section a), first passage (A<sup>3</sup> or a'), second passage (another section A<sup>3</sup> or a').

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Also, note that the subject matter of claims 6 and 7 carry no patentable weight, as the restraining device has not been positively claimed.

UK (2186006) teaches the concept of providing a seat cover with an elastic member that circumscribes the seat portion. Note the description in claim 2.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Lankenau in view of the teachings of UK (2186006) by adding an elastic member that circumscribes the seat portion. Addition of an elastic member that circumscribes the seat portion conventionally provides an inexpensive means for enhancing securement of the cover to a seating assembly.

Claims 8 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lankenau (711981) in view of UK (2186006).

Lankenau shows all claimed features of the instant invention with the exception of an elastic member that circumscribes the seat portion. Note the first sheet of material (A), removable section (B), first perforated area (a'), second perforated area (another section a'), the first and second perforated areas each forming a line (note Figure 1), third perforated area (a), and fourth perforated area (another section a). Regarding claim 11, note that Figure 2 shows each of the first and second perforated areas as crosses (a as it crosses a').

UK (2186006) teaches the concept of providing a seat cover with an elastic member that circumscribes the seat portion. Note the description in claim 2.

It would have been obvious to one having ordinary skill in the pertinent art at the time of the instant invention to modify Lankenau in view of the teachings of UK (2186006) by adding an elastic member that circumscribes the seat portion. Addition of an elastic member that circumscribes the seat portion conventionally provides an inexpensive means for enhancing securement of the cover to a seating assembly.

### ***Allowable Subject Matter***

Claims 3 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Amendment/Arguments***

Applicant's response filed August 19, 2004 has been fully considered. Remaining issues are outlined in the above sections. New grounds of rejection are presented, as necessitated by Applicant's amendments. Arguments regarding a lack of showing of an elastic member that circumscribes the seat portion are now moot. Regarding independent claims 1 and 8, Applicant argues that Lankenau lacks passages that permit a child's legs to pass through the first sheet. Lankenau shows this feature, as described in the rejection above. Applicant argues that the cover of Lankenau comprises a larger sheet having several smaller sheets which are separable from the larger sheet by perforations. This is agreed to. Applicant further argues that when the smaller sheets are torn along the perforation, they are completely removed from the

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larger sheet and therefore cannot create a passage for receiving a child's legs. The smaller sheets are only completely removed from the larger sheets when they are completely torn along the perforations from one end to the other end. The perforations are clearly capable of being partially torn, thereby forming openings in the sheet. The openings are clearly capable of receiving items (e.g. a child's legs) therethrough. As such, Applicant's arguments regarding independent claims 1 and 8 are not considered persuasive.

Dependent claim 2 has been cancelled and is no longer of consideration. Dependent claims 3 and 9 are now considered to include allowable subject matter (based on amendments to the dependent claims). The remaining dependent claims have not been specifically argued, and remain rejected.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A removable cover assembly is shown by each of Frazier (6484328), Abdrabbo (4920584), Holmes (6532595), Dossola et al (5537693), France (2587892), MacLean (4887321), and Watsky (37532620).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

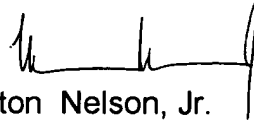
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milton Nelson, Jr. whose telephone number is 7033082117. The examiner can normally be reached on Monday-Friday 5:30-3:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Milton Nelson, Jr.  
Primary Examiner  
Art Unit 3636

mn  
November 15, 2004